

Message

From: Shiffman, Cari [Shiffman.Cari@epa.gov]
Sent: 1/26/2021 3:51:49 PM
To: Johnson, Kathleen [Johnson.Kathleen@epa.gov]; Starfield, Lawrence [Starfield.Lawrence@epa.gov]; Kelley, Rosemarie [Kelley.Rosemarie@epa.gov]
CC: Branning, Hannah [Branning.Hannah@epa.gov]; LaBoda, Sarah [LaBoda.Sarah@epa.gov]
Subject: RE: Revocation of an OECA/OGC memo on enforcement
Attachments: Revocation of Memorandum Implementing Executive Order 13892 Section 6 Regarding Civil Administrative Enforcement (For Signature).pdf

Larry,

Melissa has signed the memo. After you sign, Sarah will set up two transmittals for you – one to the Regions/OECA and one to the program offices regarding the follow-on memos they issued.

Thanks,

Cari Shiffman, Chief of Staff
U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance
Office: (202) 564-2898 | Mobile: (202) 823-3277

From: Shiffman, Cari <Shiffman.Cari@epa.gov>
Sent: Monday, January 25, 2021 3:48 PM
To: Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Branning, Hannah <Branning.Hannah@epa.gov>
Subject: RE: Revocation of an OECA/OGC memo on enforcement

It's been sent to OGC for signature.

Thanks,

Cari Shiffman, Chief of Staff
U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance
Office: (202) 564-2898 | Mobile: (202) 823-3277

From: Johnson, Kathleen <Johnson.Kathleen@epa.gov>
Sent: Monday, January 25, 2021 3:05 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Branning, Hannah <Branning.Hannah@epa.gov>
Subject: RE: Revocation of an OECA/OGC memo on enforcement

I can't imagine they need to see it again. I suggest just finalize and sign and send it over to OGC.

Kathleen H. Johnson
Senior Policy Advisor
Office of Enforcement and Compliance Assurance
Cell phone 415-640-5476

Johnson.kathleen@epa.gov

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Monday, January 25, 2021 3:03 PM
To: Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Branning, Hannah <Branning.Hannah@epa.gov>
Subject: RE: Revocation of an OECA/OGC memo on enforcement

Should we finalize and have me sign, or do we first need to share with OGC again?

Larry

From: Johnson, Kathleen <Johnson.Kathleen@epa.gov>
Sent: Monday, January 25, 2021 2:54 PM
To: Shiffman, Cari <Shiffman.Cari@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Branning, Hannah <Branning.Hannah@epa.gov>
Subject: RE: Revocation of an OECA/OGC memo on enforcement

Thank Cari, looks good. Thanks for looking up the EO number.

Kathleen H. Johnson
Senior Policy Advisor
Office of Enforcement and Compliance Assurance
Cell phone 415-640-5476
Johnson.kathleen@epa.gov

From: Shiffman, Cari <Shiffman.Cari@epa.gov>
Sent: Monday, January 25, 2021 2:37 PM
To: Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Branning, Hannah <Branning.Hannah@epa.gov>
Subject: RE: Revocation of an OECA/OGC memo on enforcement

Made one more tweak.

Thanks,

Cari Shiffman, Chief of Staff
U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance
Office: (202) 564-2898 | Mobile: (202) 823-3277

From: Shiffman, Cari <Shiffman.Cari@epa.gov>
Sent: Monday, January 25, 2021 2:26 PM
To: Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Branning, Hannah <Branning.Hannah@epa.gov>
Subject: RE: Revocation of an OECA/OGC memo on enforcement

I made changes now that the EO has a number and has been published in the FR – I think it makes it easier to understand which EO we are talking about - <https://www.federalregister.gov/documents/2021/01/25/2021-01767/revocation-of-certain-executive-orders-concerning-federal-regulation>. Let me know what you think.

Thanks,

Cari Shiffman, Chief of Staff
U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance
Office: (202) 564-2898 | Mobile: (202) 823-3277

From: Shiffman, Cari <Shiffman.Cari@epa.gov>
Sent: Monday, January 25, 2021 2:14 PM
To: Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Branning, Hannah <Branning.Hannah@epa.gov>
Subject: RE: Revocation of an OECA/OGC memo on enforcement

Should we have OGC sign first? Presumably Larry will be the one to distribute to the Regions.

Thanks,

Cari Shiffman, Chief of Staff
U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance
Office: (202) 564-2898 | Mobile: (202) 823-3277

From: Johnson, Kathleen <Johnson.Kathleen@epa.gov>
Sent: Monday, January 25, 2021 1:58 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: RE: Revocation of an OECA/OGC memo on enforcement

I'll alert Andy to that minor change. Cari – can you go ahead and set this up for signatures? Thank you!

Kathleen H. Johnson
Senior Policy Advisor
Office of Enforcement and Compliance Assurance
Cell phone 415-640-5476
Johnson.kathleen@epa.gov

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Monday, January 25, 2021 1:48 PM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>
Cc: Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: RE: Revocation of an OECA/OGC memo on enforcement

Sounds good to me.

From: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Sent: Monday, January 25, 2021 1:41 PM

To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>

Cc: Shiffman, Cari <Shiffman.Cari@epa.gov>

Subject: RE: Revocation of an OECA/OGC memo on enforcement

I am suggesting one edit – changing the language in the penultimate sentence from “the fair and efficient enforcement for the protection of human health and the environment under EPA’s environmental statutes” to “the fair and efficient enforcement of the laws designed to protect human health and the environment.”

Rosemarie

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>

Sent: Monday, January 25, 2021 1:24 PM

To: Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>

Cc: Shiffman, Cari <Shiffman.Cari@epa.gov>

Subject: RE: Revocation of an OECA/OGC memo on enforcement

I agree. Unless Rosemarie has other comments, let’s put in final.

Larry

From: Johnson, Kathleen <Johnson.Kathleen@epa.gov>

Sent: Monday, January 25, 2021 1:06 PM

To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>

Cc: Shiffman, Cari <Shiffman.Cari@epa.gov>

Subject: FW: Revocation of an OECA/OGC memo on enforcement

I talked to Andy. Lets delete “in any event” and from my perspective this is ready for Cari to put in formal form for signature.

Kathleen H. Johnson

Senior Policy Advisor

Office of Enforcement and Compliance Assurance

Cell phone 415-640-5476

Johnson.kathleen@epa.gov

From: Johnson, Kathleen

Sent: Monday, January 25, 2021 12:16 PM

To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>

Subject: RE: Revocation of an OECA/OGC memo on enforcement

My thoughts

Kathleen H. Johnson

Senior Policy Advisor

Office of Enforcement and Compliance Assurance

Cell phone 415-640-5476

Johnson.kathleen@epa.gov

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>

Sent: Monday, January 25, 2021 12:14 PM

To: Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>

Subject: FW: Revocation of an OECA/OGC memo on enforcement

Kathleen and Rosemarie,

I'm good with these changes, if the characterizations are correct. Please check with the team and let me know. Thanks.

Larry

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From: Simons, Andrew <Simons.Andrew@epa.gov>
Sent: Monday, January 25, 2021 10:45 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: RE: Revocation of an OECA/OGC memo on enforcement

Larry:

This looks good. We did have some suggestions/slight revisions for you and your team to consider. Thanks again for your attention to this and it seems like we should be able to close this out quickly.

Andrew Simons
Acting Associate General Counsel
Cross-Cutting Issues Law Office
U.S. Environmental Protection Agency
Tel. 202-564-3649
WJC-N 7526E

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Please consider the environment before printing this email.

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Friday, January 22, 2021 6:58 PM
To: Hoffer, Melissa <Hoffer.Melissa@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: Revocation of an OECA/OGC memo on enforcement

Melissa,

On January 20th, President Biden issued an Executive Order (EO) on *Revocation of Certain Executive Orders Concerning Federal Regulations*. That EO specifically revokes an executive order (no. 13892) issued by the Trump Administration, entitled *Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication*. President Biden's EO further states that the heads of agencies shall "promptly take steps to rescind any orders, rules, regulations, guidelines or policies" implementing that order.

In conformance with that direction, I would like to quickly revoke the September 2020 memorandum issued by former OECA Assistant Administrator Susan Bodine and former General Counsel Matthew Leopold (AA/GC memo), implementing Section 6 of Trump Executive Order 13892. The Trump EO, and the ensuing AA/GC memo, provided that

agencies engaged in an administrative enforcement action should afford regulated parties certain procedural safeguards above and beyond those required by law. Although the practice of the enforcement program is to provide many of the procedural steps spelled out in the AA/GC memorandum, that memo raised numerous implementation issues for enforcement that have slowed our enforcement efforts; we believe the procedures required in the AA/GC memo are unwarranted and unnecessary.

Because memo on EO 13892 Section 6 was jointly issued by the Assistant Administrator for OECA and the General Counsel, I would propose that we issue a revocation memo jointly. Attached is a suggested version for your review (Andy Simons, on your staff, is very familiar with the Section 6 memo).

If you have any questions, or would like to set up some time to discuss this matter, please contact me or Kathleen Johnson of my staff.

Thank you.

Larry

Larry Starfield
Acting Assistant Administrator
Office of Enforcement and Compliance Assurance
(202) 505-0961 (cell)

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender.
Thank you.